

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11924-RGS

IAN J. BROWN, JAMES
BROWN, and BARBARA
BROWN,
Plaintiffs,

v.

UNITED STATES OF
AMERICA, VERIZON NEW
ENGLAND, INC., and
BOSTON EDISON COMPANY
d/b/a NSTAR ELECTRIC,
Defendants.

JOINT MOTION OF THE PARTIES TO EXTEND DISCOVERY SCHEDULE

Now come all parties to the above-referenced action and jointly move the Court to extend discovery by approving the proposed revised discovery schedule set forth below.

As grounds therefore the parties state as follows:

1. The Court has yet to rule on Defendant, United States of America's Motion to Dismiss, filed prior to the Court's approval of the Proposed Discovery Schedule [proposed by all parties except Defendant, United States of America ("USA")] on July 25, 2005.
2. Defendant USA, given the expense and time involved, has been and continues to be reluctant to participate in depositions in this case pending Court action on its Motion to Dismiss.
3. Several depositions have taken place to date without the presence of Defendant USA's counsel.

4. However, there are a number of important fact depositions that the parties need to schedule but which Defendant USA is reluctant to attend for the reasons stated above. At least one of those depositions would involve out-of-state travel to New Jersey.
5. Defendant USA is reluctant to begin spending the time and resources necessary to effectuate full expert disclosure, pending the Court's ruling on the aforementioned Motion to Dismiss.
6. Defendant USA has taken the position that it may decline to attend depositions but retains the right to retake those depositions should the Court deny its Motion to Dismiss. While the parties may disagree on this point, taking depositions twice in this matter would be costly to all parties.
7. All of the above has resulted in the parties being unable to conduct full and complete discovery in the time allotted to them under the existing discovery schedule.
8. Once it is determined by the Court whether the USA remains a party or not, the parties are confident they can complete fact discovery within 90 days from that date.
9. Assuming that the Court will rule on the Motion to Dismiss within the next 60 days, the parties therefore move the Court to extend the schedule for discovery as follows:
 - a. Non-expert discovery – To be completed by March 31, 2006;
 - b. Plaintiffs' expert disclosure – To be completed by May 31, 2006;
 - c. Defendants' expert disclosure – To be completed by July 3, 2006;
 - d. Expert depositions – To be completed by August 31, 2006;
 - e. Dispositive motions – To be served by October 16, 2006;

WHEREFORE, the parties jointly move this Court to extend discovery by approving the proposed revised discovery schedule set forth above.

Respectfully submitted,

The Plaintiffs,
By their attorney,

/s/ Scott E. Charnas
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The Defendant,
Verizon New England, Inc.
By its attorney,

/s/ Joshua A. Lewin
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The Defendant,
Boston Edison Company,
d/b/a NSTAR Electric
By its attorney,

/s/ Michael K. Callahan
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The Defendant,
United States of America,
By its attorney,

/s/ Damian W. Wilmot
Damian W. Wilmot
Assistant US Attorney
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Boston, MA 02210
617-748-3100

Dated: November 2, 2005

CERTIFICATE OF SERVICE

I, Scott E. Charnas, hereby certify that on the 2nd day of November, 2005, I caused a copy of the foregoing to be served, by electronic filing and by first class mail, postage prepaid, upon Damian W. Wilmot, Esquire, Assistant United States Attorney, Moakley Federal Courthouse, One Courthouse Way, Suite 9200, Boston, Massachusetts 02210, Joshua A. Lewin, Esquire, Prince, Lobel, Glovsky & Tye, LLP, 585 Commercial Street, Boston, Massachusetts 02109, and Michael K. Callahan, Esquire, NSTAR Electric & Gas Corporation, Prudential Tower, 800 Boylston Street, 17th Floor, Boston, Massachusetts 02109.

/s/ Scott E. Charnas
Scott E. Charnas